

AMENDED IN SENATE APRIL 26, 2001

AMENDED IN SENATE APRIL 16, 2001

SENATE BILL

No. 694

Introduced by Senator Sher

February 23, 2001

~~An act to amend Sections 18895.2, 18896, 18896.6, 18897.3, and 18897.8 of, to add Section 18895.3 to, to add Chapter 2.6 (commencing with Section 18900) to Division 8 of, and to repeal Article 3 (commencing with Section 18897.6) of Chapter 2.5 of Division 8 of, the An act to add Chapter 2.5 (commencing with Section 18900) to, and to repeal Chapter 2.5 (commencing with Section 18895) of, Division 8 of the Business and Professions Code, relating to athlete agents.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 694, as amended, Sher. Athlete agents.

The

Existing law, the Miller-Ayala Athlete Agents Act, regulates specified activities of an athlete agent in representing or seeking to represent student athletes and professional athletes. Under this act, an agent is required to file with the Secretary of State specified information about his or her background, training, and experience and to advise an athlete of the availability of this information. The act also requires the athlete agent to establish a trust fund and deposit into it all funds received on behalf of the athlete, and, if providing financial services to the athlete, to disclose potential conflicts of interest, as specified it includes specified conflict-of-interest provisions pertaining to the activities of an athlete agent. This act imposes additional requirements pertaining to an athlete agent's transactions with a student athlete,

specifying the circumstances under which an athlete agent may contact a student athlete or his or her family, and requiring the athlete agent to include a disclosure in a contract with a student athlete, warning the student that he or she may lose eligibility to compete in interscholastic or intercollegiate sports upon entering into the contract and allowing the student athlete to rescind the contract within 15 days. The act allows for a civil action to recover damages resulting from its violation and makes void any contract that fails to comply with its requirements. The act also makes a violation of its provisions a misdemeanor offense.

This bill would delete the provisions of the Miller-Ayala Athlete Agents Act ~~that pertain to student athletes~~ and would enact the Uniform Athlete Agents Act to regulate the activities of an athlete agent in soliciting or contracting with a student *or professional* athlete to represent him or her in negotiations for a professional sports or endorsement contract, as defined. The bill would prohibit, subject to specified exceptions, a person from acting as an athlete agent without a certificate of registration issued by the ~~Secretary of State~~ *Department of Consumer Affairs*, and would void any contract negotiated in violation of ~~this requirement~~ *the act's requirements*. The bill would allow, as specified, for the acceptance of registration as an athlete agent with another state. The bill would require that a contract between the athlete agent and ~~student~~ athlete contain specified provisions, including the right of ~~the~~ *a* student athlete to cancel the contract within 14 days of its execution and a warning that the student may lose his or her eligibility to compete as a student athlete. The bill would require both the agent and student to notify the educational institution in which the student is enrolled within 72 hours of entering into the contract and would provide for a civil action by the educational institution against an athlete agent ~~or student athlete~~ for damages resulting from a violation of the requirements pertaining to transactions between a student athlete and athlete agent. The bill would *require an athlete agent to establish a trust fund and deposit into it any payment he or she receives on behalf of a professional athlete and would incorporate other conflict-of-interest provisions that pertain to the activities of an athlete agent under existing law. The bill would also prohibit other types of* specified conduct by an athlete agent ~~and would make the~~, making their commission of that conduct by an athlete agent a misdemeanor offense and by creating a new crime, would impose a state-mandated local program. The bill in addition would make the violation of its provisions grounds for the ~~Secretary of State~~ *department* to revoke or suspend the



athlete agent's registration and to assess a civil penalty not to exceed \$25,000 against him or her. *The bill would authorize the department, by regulation, to delegate its administrative powers and responsibilities required by the act's provisions to the State Athletic Commission.* The bill would establish a fee schedule for the registration activities required by its provisions and would direct that the fees be deposited into the ~~Student~~ Athlete Agent Registration Fund, which would be created by the bill.

~~The bill would additionally make a violation of its provisions a misdemeanor offense. By creating a new crime, this bill would impose a state-mandated local program.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 18895.2 of the Business and Professions~~
2 ~~Code is amended to read:~~
3 ~~18895.2. The following definitions govern the construction~~
4 ~~of this chapter:~~
5 ~~(a) "Agent contract" means any contract or agreement~~
6 ~~pursuant to which a person authorizes or empowers an athlete~~
7 ~~agent to negotiate or solicit on behalf of the person with one or~~
8 ~~more professional sports teams or organizations for the~~
9 ~~employment of the person by one or more professional sports~~
10 ~~teams or organizations, or to negotiate or solicit on behalf of the~~
11 ~~person for the employment of the person as a professional athlete.~~
12 ~~(b) (1) "Athlete agent" means any person who, directly or~~
13 ~~indirectly, recruits or solicits an athlete to enter into any agent~~
14 ~~contract, endorsement contract, financial services contract, or~~
15 ~~professional sports services contract, or for compensation~~
16 ~~procures, offers, promises, attempts, or negotiates to obtain~~
17 ~~employment for any person with a professional sports team or~~
18 ~~organization or as a professional athlete.~~

~~(2) (A) “Athlete agent” does not include a person licensed as an attorney, dealer in securities, financial planner, insurance agent, real estate broker or sales agent, or tax consultant, or other professional person, when the professional person offers or provides the type of services customarily provided by that profession, except and solely to the extent that the professional person also recruits or solicits an athlete to enter into any agent contract, endorsement contract, or professional sports services contract, or for compensation procures, offers, promises, attempts, or negotiates to obtain employment for any person with a professional sports team or organization or as a professional athlete.~~

~~(B) “Athlete agent” also does not include any person acting solely on behalf of a professional sports team or organization.~~

~~(C) “Athlete agent” also does not include a talent agency as defined in subdivision (a) of Section 1700.4 of the Labor Code and licensed by the Labor Commissioner pursuant to Chapter 4 (commencing with Section 1700) of Part 6 of Division 2 of the Labor Code, except as otherwise provided in this paragraph. “Athlete agent” includes a talent agency that for compensation, procures, offers, promises, attempts, or negotiates to obtain employment for any person to perform on-field play with a professional sports team or organization.~~

~~(3) Section 18896.6 does not apply to an individual acting as an athlete agent solely for his or her spouse, child, foster child, ward, or grandchild.~~

~~(c) “Employment as a professional athlete” includes employment pursuant to an endorsement contract or a professional sports services contract.~~

~~(d) “Endorsement contract” means any contract or agreement pursuant to which a person is employed or receives remuneration for any value or utility that the person may have because of publicity, reputation, fame, or following obtained because of athletic ability or performance.~~

~~(e) “Financial services” means the making or execution of an investment or other financial decision, or counseling as to a financial decision.~~

~~(f) “Negotiate” includes any contact on behalf of any athlete with a professional sports team or organization or on behalf of any person with any other person who employs or potentially may~~

1 employ the person as a professional athlete, regardless of whether
2 the contact is made in person, in writing, electronically, through
3 representatives or employees, or in any other manner.
4 “Negotiate” also includes being present during any discussion of
5 an endorsement contract or professional sports services contract
6 with representatives of the professional sports team or
7 organization or potential or actual employer.

8 (g) “Person” means any individual, company, corporation,
9 association, partnership, limited liability company, or their agents
10 or employees.

11 (h) “Professional sports services contract” means any contract
12 or agreement pursuant to which a person is employed or agrees to
13 render services as a player on a professional sports team or
14 organization or as a professional athlete.

15 SEC. 2. Section 18895.3 is added to the Business and
16 Professions Code, to read:

17 18895.3. This chapter shall not apply to any activity of an
18 athlete agent or his or her employee or representative with a
19 student athlete, as defined in Section 18901.

20 SEC. 3. Section 18896 of the Business and Professions Code
21 is amended to read:

22 18896. To assist enforcement of this chapter, each athlete
23 agent, prior to engaging in or carrying on the business of athlete
24 agent, shall file the following information with the Secretary of
25 State, in the form that the Secretary of State shall prescribe,
26 concerning the athlete agent and each individual acting as an
27 athlete agent within a firm, company, or partnership:

28 (a) The name, residence address, social security number, and
29 driver’s license number.

30 (b) The street and address number of all locations where the
31 business of the athlete agent is to be conducted.

32 (c) The name and business address of a designated agent in
33 California for service of process, as required by Section 18897.83.

34 (d) All businesses or occupations engaged in for the two years
35 immediately preceding the date of filing.

36 (e) Any convictions for any of the following:

37 (1) A felony.

38 (2) A misdemeanor involving a violation of this chapter, or
39 Chapter 1 (commencing with Section 1500) of Part 6 of Division

1 ~~2 of the Labor Code as repealed by Chapter 857 of the Statutes of~~
2 ~~1996, or the law of any other state governing athlete agents.~~

3 ~~(3) Fraud, theft, embezzlement, fraudulent conversion, or~~
4 ~~misappropriation of property.~~

5 ~~(f) (1) The name of the insurer providing the security required~~
6 ~~by Section 18897.87, and the amount of that insurance coverage,~~
7 ~~if the athlete agent provides some or all of that security in the~~
8 ~~manner required by subdivision (a) of Section 18897.87.~~

9 ~~(2) The value and specific location of the security required by~~
10 ~~Section 18897.87, if the athlete agent provides some or all of that~~
11 ~~security in the manner required by subdivision (b) of Section~~
12 ~~18897.87.~~

13 ~~(g) Any appearances before any disciplinary or professional~~
14 ~~board, association, secretary, committee, or other entity as a result~~
15 ~~of disciplinary charges or other allegations of misconduct against~~
16 ~~the athlete agent or individual, and the outcome of those~~
17 ~~proceedings.~~

18 ~~(h) All past and present persons on behalf of whom the athlete~~
19 ~~agent or individual has acted as an athlete agent.~~

20 ~~(i) The names of any players' associations with whom the~~
21 ~~athlete agent is registered.~~

22 ~~(j) At least three references.~~

23 ~~(k) Affidavits or certificate or completion of any and all formal~~
24 ~~training or practical experience in any of the following specific~~
25 ~~areas: contracts, contract negotiation, complaint resolution,~~
26 ~~arbitration, or civil resolution of contract disputes.~~

27 ~~(l) The names and residence addresses of all persons~~
28 ~~financially interested in the operation of the business of the athlete~~
29 ~~agent, whether as employees, partners, investors, associates, or~~
30 ~~profit sharers, or in any other manner.~~

31 ~~(m) A schedule of fees to be charged and collected in the~~
32 ~~conduct of the athlete agent business.~~

33 ~~SEC. 4. Section 18896.6 of the Business and Professions~~
34 ~~Code is amended to read:~~

35 ~~18896.6. Upon making first contact, direct or indirect, with a~~
36 ~~professional athlete, or a representative of that person, an athlete~~
37 ~~agent, or his or her employee or representative, shall provide that~~
38 ~~person with a written notification stating: "This athlete agent has~~
39 ~~current public disclosure information on file with the California~~
40 ~~Secretary of State as required by the Miller Ayala Athlete Agents~~

1 ~~Act, Chapter 2.5 (commencing with Section 18895) of Division 8~~
2 ~~of the Business and Professions Code, which also includes other~~
3 ~~protections for athletes. Filing of the required information does not~~
4 ~~imply approval by the California Secretary of State of the~~
5 ~~competence of the athlete agent.” The notification shall also~~
6 ~~include specific instructions on how to obtain the public disclosure~~
7 ~~information from the Secretary of State.~~

8 ~~SEC. 5. Section 18897.3 of the Business and Professions~~
9 ~~Code is amended to read:~~

10 ~~18897.3. If an athlete agent or athlete agent’s representative~~
11 ~~or employee provides financial services to a professional athlete~~
12 ~~or advises the athlete concerning investment of funds, the athlete~~
13 ~~agent shall disclose to the athlete any ownership interest the athlete~~
14 ~~agent, representative, or employee has in any entity regarding~~
15 ~~which the athlete agent, representative, or employee is providing~~
16 ~~financial services or giving advice, and any commission the athlete~~
17 ~~agent, representative, or employee will receive from the athlete’s~~
18 ~~investment.~~

19 ~~SEC. 6. Article 3 (commencing with Section 18897.6) of~~
20 ~~Chapter 2.5 of Division 8 of the Business and Professions Code is~~
21 ~~repealed.~~

22 ~~SEC. 7. Section 18897.8 of the Business and Professions~~
23 ~~Code, as added by Section 3 of Chapter 858 of the Statutes of 1996,~~
24 ~~is amended to read:~~

25 ~~18897.8. (a) Any professional athlete or any league,~~
26 ~~conference, association, or federation or any other person may~~
27 ~~bring a civil action for recovery of damages from an athlete agent,~~
28 ~~if that professional athlete, any member of that league, conference,~~
29 ~~association, or federation, or that other person is adversely affected~~
30 ~~by the acts of the athlete agent or of the athlete agent’s~~
31 ~~representative or employee in violation of this chapter.~~

32 ~~(b) A plaintiff that prevails in a civil action brought under this~~
33 ~~section may recover actual damages, or fifty thousand dollars~~
34 ~~(\$50,000), whichever is higher; punitive damages; court costs; and~~
35 ~~reasonable attorney’s fees.~~

36 ~~(c) It is the intent of the Legislature in enacting this section to~~
37 ~~encourage enforcement of this chapter through private civil~~
38 ~~actions.~~

1 ~~SEC. 8. Section 18897.8 of the Business and Professions~~
2 ~~Code, as added by Section 2 of Chapter 857 of the Statutes of 1996,~~
3 ~~is amended to read:~~

4 ~~18897.8. (a) Any professional athlete or any league,~~
5 ~~conference, association, or federation or any other person may~~
6 ~~bring a civil action for recovery of damages from an athlete agent,~~
7 ~~if that professional athlete, any member of that league, conference,~~
8 ~~association, or federation, or that other person is adversely affected~~
9 ~~by the acts of the athlete agent or of the athlete agent's~~
10 ~~representative or employee in violation of this chapter.~~

11 ~~(b) A plaintiff that prevails in a civil action brought under this~~
12 ~~section may recover actual damages, or fifty thousand dollars~~
13 ~~(\$50,000), whichever is higher; punitive damages; court costs; and~~
14 ~~reasonable attorney's fees.~~

15 ~~(c) It is the intent of the Legislature in enacting this section to~~
16 ~~encourage enforcement of this chapter through private civil~~
17 ~~actions.~~

18 ~~SEC. 9. Chapter 2.6 (commencing with Section 18900) is~~
19 ~~SECTION 1. Chapter 2.5 (commencing with Section 18895)~~
20 ~~of Division 8 of the Business and Professions Code is repealed.~~

21 ~~SEC. 2. Chapter 2.5 (commencing with Section 18900) is~~
22 ~~added to Division 8 of the Business and Professions Code, to read:~~

23
24 CHAPTER ~~2.6~~ 2.5. UNIFORM ATHLETE AGENTS ACT

25
26 Article 1. General Provisions

27
28 18900. This chapter shall be known and may be cited as the
29 Uniform Athlete Agents Act.

30 18901. The following definitions apply for the purposes of
31 this chapter:

32 (a) "Agency contract" means an agreement in which a student
33 *or professional* athlete authorizes a person to negotiate or solicit
34 on behalf of the student *or professional* athlete a professional
35 sports services contract or an endorsement contract.

36 (b) "Athlete agent" means an individual who enters into an
37 agency contract with a student athlete or, directly or indirectly,
38 recruits or solicits a student athlete to enter into an agency contract.
39 The term includes an individual who represents to the public that
40 the individual is an athlete agent. The term does not include a

1 spouse, parent, sibling, grandparent, or guardian of the student
 2 athlete or an individual acting solely on behalf of a professional
 3 sports team or professional sports organization. *“Athlete agent”*
 4 *also includes individuals who enter into a contract with a*
 5 *professional athlete or directly recruit or solicit a professional*
 6 *athlete to enter into an agency contract. “Athlete agent” does not*
 7 *include a talent agency as defined in subdivision (a) of Section*
 8 *1700.4 of the Labor Code and licensed by the Labor Commissioner*
 9 *pursuant to Chapter 4 (commencing with Section 1700) of Part 6*
 10 *of Division 2 of the Labor Code that does not directly or indirectly*
 11 *recruit or solicit student athletes to enter into agency contracts,*
 12 *endorsement contracts, or professional sports services contracts,*
 13 *as defined in this chapter.*

14 (c) *“Athletic director”* means an individual responsible for
 15 administering the overall athletic program of an educational
 16 institution or, if an educational institution has separately
 17 administered athletic programs for male students and female
 18 students, the athletic program for males or the athletic program for
 19 females, as appropriate.

20 (d) *“Contact”* means a communication, direct or indirect,
 21 between an athlete agent and a student *or professional athlete*, to
 22 recruit or solicit the student *or professional athlete* to enter into an
 23 agency contract.

24 (e) *“Department”* means the Department of Consumer Affairs.

25 (f) *“Endorsement contract”* means an agreement under which
 26 a student *or professional athlete* is employed or receives
 27 consideration to use on behalf of the other party any value that the
 28 student *or professional athlete* may have because of publicity,
 29 reputation, following, or fame obtained because of athletic ability
 30 or performance.

31 ~~(f)~~

32 (g) *“Intercollegiate sport”* means a sport played at the
 33 collegiate level for which eligibility requirements for participation
 34 by a student athlete are established by a national association for the
 35 promotion or regulation of collegiate athletics.

36 ~~(g)~~

37 (h) *“Person”* means an individual, corporation, business trust,
 38 estate, trust, partnership, limited liability company, association,
 39 joint venture, government, governmental subdivision, agency, or



1 instrumentality, public corporation, or any other legal or
2 commercial entity.

3 ~~(h)~~

4 (i) *“Professional athlete” means an individual who has entered*
5 *into a valid professional sports service contract, an agency*
6 *contract for the provision of professional sports services, or an*
7 *endorsement contract based on athletic ability or performance, or*
8 *an individual who is otherwise permanently ineligible to*
9 *participate in a particular intercollegiate sport. “Professional*
10 *athlete” does not include a student athlete as defined in this*
11 *chapter, but does include a former student athlete who has*
12 *previously signed a valid professional sports services, agency, or*
13 *endorsement contract.*

14 (j) *“Professional sports services contract” means an*
15 *agreement under which an individual is employed, or agrees to*
16 *render services, as a player on a professional sports team, with a*
17 *professional sports organization, or as a professional athlete.*

18 ~~(i)~~

19 (k) *“Record” means information that is inscribed on a tangible*
20 *medium or that is stored in an electronic or other medium and is*
21 *retrievable in perceivable form.*

22 ~~(j)~~

23 (l) *“Registration” means registration as an athlete agent*
24 *pursuant to this chapter.*

25 ~~(k)~~

26 (m) *“State” means a State of the United States, the District of*
27 *Columbia, Puerto Rico, the United States Virgin Islands, or any*
28 *territory or insular possession subject to the jurisdiction of the*
29 *United States.*

30 ~~(l)~~

31 (n) *“Student athlete” means an individual who engages in, is*
32 *eligible to engage in, or may be eligible in the future to engage in,*
33 *any intercollegiate sport. If an individual is permanently ineligible*
34 *to participate in a particular intercollegiate sport, the individual is*
35 *not a student athlete for purposes of that sport.*

36

Article 2. Registration of Athlete Agents

18910. (a) Except as otherwise provided in subdivision (b), an individual may not act as an athlete agent in this state without holding a certificate of registration under Section 18912 or 18914.

(b) Before being issued a certificate of registration, an individual may act as an athlete agent in this state for all purposes except signing an agency contract, if a student *or professional* athlete or another person acting on behalf of the student *or professional* athlete initiates communication with the individual, and within seven days after an initial act as an athlete agent, the individual submits an application for registration as an athlete agent in this state.

(c) An agency contract resulting from conduct in violation of this section is void, and the athlete agent shall return any consideration received under the contract.

18911. (a) An applicant for registration shall submit an application for registration to the ~~Secretary of State~~ *department* in a form prescribed by the ~~Secretary of State~~ *department*. The application shall be in the name of an individual and, except as otherwise provided in subdivision (b), signed or otherwise authenticated by the applicant under penalty of perjury and state or contain the following information:

(1) The name of the applicant and the address of the applicant's principal place of business.

(2) The name of the applicant's business or employer, if applicable.

(3) Any business or occupation engaged in by the applicant for the five years next preceding the date of submission of the application.

(4) A description of the applicant's formal training and practical experience as an athlete agent and a description of the applicant's educational background relating to his or her activities as an athlete agent.

(5) The names and addresses of three individuals not related to the applicant who are willing to serve as references.

(6) The name, sport, and last known team for each individual for whom the applicant acted as an athlete agent during the five years next preceding the date of submission of the application.

1 (7) If a corporation is employing the athlete agent, the names
2 and addresses of all persons who are officers or directors, and the
3 name and address of any shareholder of the corporation having an
4 interest of 5 percent or greater.

5 (8) If the athlete agent's business is other than a corporation, the
6 names and addresses of all persons who are the partners, members,
7 officers, managers, associates, or profit sharers of the business.

8 (9) Whether the applicant or any person named pursuant to
9 paragraph (7) or (8) has been convicted of a crime that, if
10 committed in this state, would be a crime involving moral
11 turpitude or a felony, and identify the crime.

12 (10) Whether there has been any administrative or judicial
13 determination that the applicant or any person named pursuant to
14 paragraph (7) or (8) has made a false, misleading, deceptive, or
15 fraudulent representation.

16 (11) Any instance in which the conduct of the applicant or any
17 person named pursuant to paragraph (7) or (8) resulted in the
18 imposition of a sanction, suspension, or declaration of ineligibility
19 to participate in an interscholastic or intercollegiate athletic event
20 on a student athlete or educational institution.

21 (12) Any sanction, suspension, or disciplinary action taken
22 against the applicant or any person named pursuant to paragraph
23 (7) or (8) arising out of occupational or professional conduct.

24 (13) Whether there has been any denial of an application for,
25 suspension or revocation of, or refusal to renew, the registration or
26 licensure of the applicant or any person named pursuant to
27 paragraph (7) or (8) as an athlete agent in any state.

28 (b) An individual who has submitted an application for, and
29 holds a certificate of, registration or licensure as an athlete agent
30 in another state may submit a copy of the application and
31 certificate in lieu of submitting an application in the form
32 prescribed pursuant to subdivision (a). The ~~Secretary of State~~
33 *department* shall accept the application and the certificate from the
34 other state as an application for registration in this state if the
35 application to the other state meets the following criteria:

36 (1) It was submitted in the other state within six months next
37 preceding the submission of the application in this state, and the
38 applicant certifies that the information contained in the application
39 is current.

(2) It contains information substantially similar to or more comprehensive than that required in an application submitted in this state.

(3) It was signed by the applicant under penalty of perjury.

18912. (a) Except as otherwise provided in subdivision (b), the ~~Secretary of State~~ *department* shall issue a certificate of registration to an individual who complies with subdivision (a) of Section 18911 or whose application has been accepted under subdivision (b) of Section 18911.

(b) The ~~Secretary of State~~ *department* may refuse to issue a certificate of registration if the ~~Secretary of State~~ *department* determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent. In making the determination, the ~~Secretary of State~~ *department* may consider whether the applicant has:

(1) Been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony.

(2) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent.

(3) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity.

(4) Engaged in conduct prohibited by Section 18930.

(5) Had a registration or licensure as an athlete agent suspended, revoked, or denied or been refused renewal of registration or licensure as an athlete agent in any state.

(6) Engaged in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student athlete or educational institution.

(7) Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

(c) In making a determination under subdivision (b), the ~~Secretary of State~~ *department* shall consider how recently the conduct occurred, the nature of the conduct and the context in which it occurred, and any other relevant conduct of the applicant.

(d) The term of a certificate of registration is two years from the date of its issuance.

18913. (a) An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the ~~Secretary of State~~ *department*. The application for renewal

1 shall be signed by the applicant under penalty of perjury and
2 contain current information on all matters required in an original
3 registration.

4 (b) An individual who has submitted an application for renewal
5 of registration or licensure in another state, in lieu of submitting
6 an application for renewal in the form prescribed pursuant to
7 subdivision (a), may file a copy of the application for renewal and
8 a valid certificate of registration or licensure from the other state.
9 The ~~Secretary of State~~ *department* shall accept the application for
10 renewal from the other state as an application for renewal in this
11 state if the application to the other state meets the following
12 criteria:

13 (1) It was submitted in the other state within six months next
14 preceding the filing in this state, and the applicant certifies the
15 information contained in the application for renewal is current.

16 (2) It contains information substantially similar to or more
17 comprehensive than that required in an application for renewal
18 submitted in this state.

19 (3) It was signed by the applicant under penalty of perjury.

20 (c) The term of the renewal of a certificate of registration is two
21 years from the date of its renewal.

22 18914. The ~~Secretary of State~~ *department* may issue a
23 temporary certificate of registration while an application for
24 registration or renewal of registration is pending.

25 18915. An application for a certificate of registration and an
26 application for renewal of a certificate of registration are public
27 records for the purposes of the California Public Records Act
28 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
29 Title 1 of the Government Code).

30 18916. (a) The ~~Secretary of State~~ *department* may suspend,
31 revoke, or refuse to renew a registration for conduct that would
32 have justified denial of registration under subdivision (b) of
33 Section 18912.

34 (b) The ~~Secretary of State~~ *department* may deny, suspend,
35 revoke, or refuse to renew a certificate of registration or licensure
36 only after proper notice and an opportunity for a hearing. The
37 proceedings under this subdivision shall be conducted in
38 accordance with Chapter 5 (commencing with Section 11500) of
39 Part 1 of Division 3 of Title 2 of the Government Code.

40

Article 3. Agency Contracts

18920. (a) An agency contract shall be in a record, signed or otherwise authenticated by the parties.

(b) An agency contract shall state or contain the following:

(1) The amount and method of calculating the consideration to be paid by the student *or professional* athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for providing the services.

(2) The name of any person not listed in the application for registration or renewal of registration who will be compensated because the student *or professional* athlete signed the agency contract.

(3) A description of any expenses that the student *or professional* athlete agrees to reimburse.

(4) A description of the services to be provided to the student *or professional* athlete.

(5) The duration of the contract.

(6) The date of execution.

(c) ~~An agency contract~~ Every agency contract in which a student athlete is a party shall contain, in close proximity to the signature of the student athlete, a conspicuous notice in boldface type in capital letters stating the following:

“WARNING TO STUDENT ATHLETE IF YOU SIGN THIS
CONTRACT:

(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE
AS A STUDENT ATHLETE IN YOUR SPORT.

(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72
HOURS AFTER ENTERING INTO THIS CONTRACT, BOTH
YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR
ATHLETIC DIRECTOR.

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14
DAYS AFTER SIGNING IT. CANCELLATION OF THIS
CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.”

(d) An agency contract that does not conform to this ~~section~~
chapter is voidable by the student *or professional* athlete. If a

1 student *or professional* athlete voids an agency contract, the
2 student *or professional* athlete is not required to pay any
3 consideration under the contract or to return any consideration
4 received from the athlete agent to induce the student *or*
5 *professional* athlete to enter into the contract.

6 (e) The athlete agent shall give a record of the signed or
7 otherwise authenticated agency contract to the student *or*
8 *professional* athlete at the time of execution.

9 18921. (a) Within 72 hours after entering into an agency
10 contract or before the next scheduled athletic event in which the
11 student athlete may participate, whichever occurs first, the athlete
12 agent shall give notice in a record of the existence of the contract
13 to the athletic director of the educational institution at which the
14 student athlete is enrolled or the athlete agent has reasonable
15 grounds to believe the student athlete intends to enroll.

16 (b) Within 72 hours after entering into an agency contract or
17 before the next athletic event in which the student athlete may
18 participate, whichever occurs first, the student athlete shall inform
19 the athletic director of the educational institution at which the
20 student athlete is enrolled that he or she has entered into an agency
21 contract.

22 18922. (a) A student athlete may cancel an agency contract
23 by giving notice of the cancellation to the athlete agent in a record
24 within 14 days after the contract is signed.

25 (b) A student athlete may not waive the right to cancel an
26 agency contract.

27 (c) If a student athlete cancels an agency contract, the student
28 athlete is not required to pay any consideration under the contract
29 or to return any consideration received from the athlete agent to
30 induce the student athlete to enter into the contract.

31
32 Article 4. Offenses and Enforcement
33

34 18930. (a) An athlete agent, with the intent to induce a
35 student *or professional* athlete to enter into an agency contract,
36 may not engage in any of the following conduct:

37 (1) Give any materially false or misleading information or
38 make a materially false promise or representation.

1 (2) Furnish anything of value to a student *or professional*
2 athlete before the student *or professional* athlete enters into the
3 agency contract.

4 (3) Furnish anything of value to any individual other than the
5 student *or professional* athlete or another registered athlete agent.

6 (b) An athlete agent may not intentionally engage in any of the
7 following conduct:

8 (1) Initiate contact with a student *or professional* athlete unless
9 registered under this chapter.

10 (2) Refuse or fail to retain or permit inspection of the records
11 required to be retained by Section 18950.

12 (3) Fail to register when required by Section 18910.

13 (4) Provide materially false or misleading information in an
14 application for registration or renewal of registration.

15 (5) Predate or postdate an agency contract.

16 (6) Fail to notify a student athlete before the student athlete
17 signs or otherwise authenticates an agency contract for a particular
18 sport that the signing or authentication may make the student
19 athlete ineligible to participate as a student athlete in that sport.

20 18931. An athlete agent who violates Section 18930 is guilty
21 of a misdemeanor *punishable by a fine not to exceed fifty thousand*
22 *dollars (\$50,000), by imprisonment in a county jail not to exceed*
23 *one year, or by both that fine and imprisonment. A court may*
24 *suspend or revoke the registration of any person convicted of a*
25 *criminal violation of this section.*

26 18932. (a) An educational institution has a right of action
27 against an athlete agent ~~or a former student athlete~~ for damages
28 caused by a violation of this chapter. In an action under this section,
29 the court may award to the prevailing party costs and reasonable
30 attorney's fees.

31 (b) Damages of an educational institution under subdivision (a)
32 include losses and expenses incurred because, as a result of the
33 conduct of an athlete agent ~~or former student athlete~~, the
34 educational institution was injured by a violation of this chapter or
35 was penalized, disqualified, or suspended from participation in
36 athletics by a national association for the promotion and regulation
37 of athletics, by an athletic conference, or by reasonable
38 self-imposed disciplinary action taken to mitigate sanctions likely
39 to be imposed by such an organization.

(c) A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student athlete.

~~(d) Any liability of the athlete agent or the former student athlete under this section is several and not joint.~~

~~(e)~~

(d) This chapter does not restrict rights, remedies, or defenses of any person under law or equity.

18933. The ~~Secretary of State~~ *department* may assess a civil penalty against an athlete agent not to exceed twenty-five thousand dollars (\$25,000) for a violation of this chapter. The provisions of paragraphs (1), (2), (4), and (5) of subdivision (b) of Section 125.9 apply to the assessment of a civil penalty made under this section.

Article 5. Revenue

18940. (a) An application for registration or renewal of registration shall be accompanied by a fee ~~in the following amount~~ *not to exceed the following*:

(1) Five hundred dollars (\$500) for an initial application for registration.

(2) Four hundred dollars (\$400) for an application for registration based upon a certificate of registration or licensure issued by another state.

(3) Five hundred dollars (\$500) for an application for renewal of registration.

(4) Four hundred dollars (\$400) for an application for renewal of registration based upon an application for renewal of registration or licensure submitted in another state.

(b) The ~~Secretary of State~~ *department* may by regulation adjust the amount of any fee specified in subdivision (a) if required to reflect the actual costs incurred in administering the provisions of this chapter.

18941. All fees collected pursuant to Section 18940 and all civil penalties collected pursuant to Section 18933 shall be deposited into the ~~Student~~ Athlete Agent Registration Fund, which is hereby created.

Article 6. Miscellaneous

18950. (a) An athlete agent shall retain the following records for a period of five years:

(1) The name and address of each individual represented by the athlete agent.

(2) Any agency contract entered into by the athlete agent.

(3) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student *or professional* athlete to enter into an agency contract.

(b) Records required by subdivision (a) to be retained are open to inspection by the ~~Secretary of State~~ *department* during normal business hours.

18951. By acting as an athlete agent in this state, a nonresident individual appoints the ~~Secretary of State~~ *department* as the individual's agent for service of process in any civil action in this state related to the individual's acting as an athlete agent in this state.

18952. The ~~Secretary of State~~ *department* may issue subpoenas for any material that is relevant to the administration of this chapter.

18953. The provisions of this chapter governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of those records or signatures conform to the requirements of Section 102 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. Sec. 7001 et seq.) and supersede, modify, and limit the Electronic Signatures in Global and National Commerce Act.

18954. The provisions of this chapter are taken from the Uniform Athletes Act of 2000, drafted by the National Conference of Commissioners on Uniform State Laws. In applying and construing the provisions of this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

18955. (a) *The department may, by regulation, delegate or assign its administrative powers and responsibilities under this chapter to the State Athletic Commission, including, but not limited to, the power to reject, deny, suspend, revoke, or refuse to renew a registration pursuant to Article 2 (commencing with*

1 Section 18910), to assess civil penalties pursuant to Section
2 18933, to collect fees pursuant to Article 5 (commencing with
3 Section 18940), and to inspect records, act as the agent of process,
4 and issue subpoenas pursuant to this article.

5 (b) The department may, in accordance with Chapter 3.5
6 (commencing with Section 11340) of Part 1 of Division 3 of Title
7 2 of the Government Code, adopt, amend, and repeal any other
8 regulations reasonably necessary for the purpose of administering
9 this chapter and consistent with this chapter.

10 18956. The athlete agent shall establish a trust fund if the
11 athlete agent is the recipient of a professional athlete's salary. An
12 athlete agent who receives any payment on behalf of a professional
13 athlete shall immediately deposit the payment in a trust fund
14 account maintained by the athlete agent in a state or federally
15 chartered financial institution.

16 18957. (a) No athlete agent shall have an ownership or
17 financial interest in any entity that is directly involved in the same
18 sport as a person with whom the athlete agent has entered into an
19 agent contract, or for whom the athlete agent is attempting to
20 negotiate an endorsement contract, or professional sports service
21 contract, or for whom the athlete agent provides advice
22 concerning potential or actual employment as a professional
23 athlete.

24 (b) If an athlete agent or athlete agent's representative or
25 employee provides financial services to a professional athlete or
26 student athlete or advises the athlete concerning investment of
27 funds, the athlete agent shall disclose to the athlete any ownership
28 interest the athlete agent, representative, or employee has in any
29 entity regarding which the athlete agent, representative, or
30 employee is providing financial services or giving advice, and any
31 commission the athlete agent, representative, or employee will
32 receive from the athlete's investment.

33 (c) No athlete agent shall divide fees with, or receive
34 compensation from, a professional sports league, team, or other
35 organization or its representatives or employees, or offer or allow
36 any full-time employee of a union or players' association
37 connected with professional sports to own or participate in any of
38 the revenues of the athlete agent.

39 (d) No athlete agent or athlete agent's representative or
40 employee shall offer or provide money or anything of benefit or

1 *value, including, but not limited to, free or reduced price legal*
2 *services, to any elementary or secondary school, college,*
3 *university, or other education institution, or any representative or*
4 *employee of any of these educational institutions in return for the*
5 *referral of any clients.*

6 *18958. No athlete agent shall knowingly secure employment*
7 *for a person in any place where a strike, lockout, or other labor*
8 *trouble exists, without notifying the person of those conditions.*

9 *18959. No athlete agent shall knowingly enter into a contract*
10 *containing any term or condition that, if complied with, would be*
11 *in violation of law, or attempt to fill an order for help to be*
12 *employed in violation of the law.*

13 *18960. The provisions of this chapter are severable. If any*
14 *provision of this chapter or its application is held invalid, that*
15 *invalidity shall not affect other provisions or applications that can*
16 *be given effect without the invalid provision or application.*

17 ~~SEC. 10.~~

18 *SEC. 3. No reimbursement is required by this act pursuant to*
19 *Section 6 of Article XIII B of the California Constitution because*
20 *the only costs that may be incurred by a local agency or school*
21 *district will be incurred because this act creates a new crime or*
22 *infraction, eliminates a crime or infraction, or changes the penalty*
23 *for a crime or infraction, within the meaning of Section 17556 of*
24 *the Government Code, or changes the definition of a crime within*
25 *the meaning of Section 6 of Article XIII B of the California*
26 *Constitution.*

